

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-V-

EDWARD SHIN,

Defendant.

19 Cr. 552 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

The Court has scheduled a final pretrial conference in this case for November 23, 2021, at 3:00 p.m. The final pretrial conference will take place in Courtroom 24B of the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, which is the Courtroom where the Court expects the trial to occur.

Attached as Exhibit A to this Order is a draft of a *voir dire* form that the Court intends to use during jury selection. The parties should be prepared to discuss the form, including any objections or proposed additional questions, at the final pretrial conference.

SO ORDERED.

Dated: November 17, 2021
New York, New York



JOHN P. CRONAN
United States District Judge

Exhibit A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v.-

EDWARD SHIN,
a/k/a “Eungsoo Shin,”

Defendant.

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S2 19 Cr. 552 (JPC)

VOIR DIRE FORM

JOHN P. CRONAN, United States District Judge:

Parties’ Joint Statement of the Case

The defendant Edward Shin is charged in a five-count Indictment with violations of federal criminal law relating to the issuance of bank loans. Mr. Shin is the former Chief Executive Officer of Noah Bank, a small community bank that operates primarily in the New York/New Jersey area. In particular, the Government contends that Shin, as the CEO of Noah Bank, caused Noah Bank to issue loans in three illegal ways: (1) Shin caused Noah Bank to issue loans to companies that Shin had secret ownership interests in; (2) Shin caused Noah Bank to issue loans to borrowers who had not put in sufficient amounts of their own money towards the business; and (3) Shin caused Noah Bank to pay loan broker fees, portions of which were secretly given back to Shin as bribes or kickbacks. Shin has entered a not guilty plea to all charges. He is presumed innocent. The United States has the burden of proof beyond a reasonable doubt to prove Shin guilty of any or all of the charges.

Questions for Potential Jurors

Please indicate if your answer to any of the following questions is “yes.” If you would prefer not to give your answer in open court, please say so.

Part 1: General Juror Questionnaire

1. Do you have any personal knowledge of the charges against Mr. Shin as I have described them?
2. Have you seen or read anything about this case?
3. Is there anything about the nature of this case that would cause you to be unable to render a fair and impartial verdict?
4. Have you, or to your knowledge has a family member or close friend, had any personal experiences that you feel might make it difficult for you to be fair and impartial in this case?
5. I am now going to introduce you to the parties and their lawyers. As I just told you, the defendant in this case is named Edward Shin, who the Government claims is also known as “Eungsoo Shin.” I ask Mr. Shin to stand. Do you, or to your knowledge does a family member or close friend, know Mr. Shin or anyone close to him?
6. Mr. Shin is represented at this trial by Paul Brickfield of the law firm Brickfield & Donahue and Robert Basil and Carolyn McGuire of the law firm the Basil Law Group. I ask Mr. Brickfield, Mr. Basil, and Ms. McGuire to stand. Do you, or to your knowledge does a family member or close friend, know Mr. Brickfield, Mr. Basil, Ms. McGuire, or anyone at either of their law firms?
 - a. Have you, or to your knowledge has a family member or close friend, had any dealings, either directly or indirectly, with Mr. Brickfield, Mr. Basil, Ms. McGuire, or anyone at either of their law firms?
7. The Government is represented here by the United States Attorney for the Southern District of New York, who is Damian Williams. The conduct of this trial will be in the immediate charge of Assistant United States Attorneys Tara LaMorte, Anden Chow, and Jessica Greenwood. The Government will also be assisted by _____, a paralegal at the United States Attorney’s Office, and Special Agent _____ of the _____. I ask those individuals to stand. Do you, or to your knowledge

does any family member or close friend, know any of these individuals?

- a. Have you, or to your knowledge has any family member or close friend, had any dealings, either directly or indirectly, with any of these individuals?

8. Exhibit A, found at the back of this document, is a list of people or entities that may be mentioned at trial or who may be witnesses at trial. Have you, or to your knowledge has any family member or close friend, had dealings with any of these people or entities?
9. Exhibit B, found at the back of this document, is a list of locations. Have you ever visited any of these locations, or do you otherwise have any personal knowledge or familiarity with any of them?
10. During this trial, I will be assisted by members of the Court's staff, including the Courtroom Deputy, Meghan Henrich, and my law clerks, Eric Dement, Hyungjoo Han, and Jason Smith. I ask those individuals to stand. Do you, or to your knowledge does any family member or close friend, know Ms. Henrich, Mr. Dement, Ms. Han, Mr. Smith, or me?
11. Please look around the room. Do you recognize anyone you know?
12. Have you or has anyone close to you ever worked for any state, federal, or other agency that regulates banks or any other type of financial institutions, such as:
 - a. The Small Business Administration or SBA;
 - b. The Federal Deposit Insurance Corporation or FDIC;
 - c. The Office of the Comptroller of the Currency or OCC; or
 - d. The Securities and Exchange Commission or SEC?
13. Have you developed any bias for or against the United States Attorney's Office for the Southern District of New York, the Department of Justice, the Department of Homeland Security, the SBA, the FDIC, the OCC, the SEC, or the Federal Bureau of Investigation?

14. Have you, or to your knowledge has a family member or close friend, ever worked for a law enforcement agency or the federal or state judiciary?
15. Have you, or to your knowledge has a family member or close friend, ever worked for a criminal defense lawyer or a private investigator?
16. The case will involve evidence about Noah Bank, a commercial bank that mainly operates in New York, Pennsylvania, and New Jersey.
 - a. Are you familiar with Noah Bank?
 - b. Do you know anyone that has worked at Noah Bank or has any relationship with the bank?
17. Have you, or to your knowledge has a family member or close friend, ever worked in the financial industry, including for a bank or lending agency?
18. Have you ever owned a business?
19. Have you, or to your knowledge has a family member or close friend, ever been involved in a dispute with a bank or other type of lending institution?
20. Do you have any opinions, positive or negative, about lawyers, judges, or the courts that may prevent you from rendering a fair and impartial verdict in this case?
21. Have you ever studied or practiced law or worked in any capacity for a law office?
22. Have you, or to your knowledge has an immediate family or close friend, ever brought or participated in any lawsuit or legal proceeding, civil or criminal in any court, whether it went to trial or not, as a plaintiff, defendant, witness, victim, or in any other capacity?
23. Have you, or to your knowledge has any family member or close friend, ever been questioned or interrogated by any law enforcement agency?
24. To your knowledge, are you, or a family member or close friend, now under subpoena or about to be subpoenaed in any case?

25. Have you, or to your knowledge has a family member or close friend, ever been arrested, investigated, accused, or convicted of a crime?
26. Have you, or to your knowledge has a family member or close friend, ever been incarcerated at a jail or prison? If yes:
 - a. For how long and in what capacity?
 - b. Is there anything about that experience that might make it difficult for you to render a fair and impartial verdict in this case?
27. Have you, or to your knowledge has a family member or close friend, ever been the victim of a crime?
28. Have you, or to your knowledge has a family member or close friend, ever been the victim of a financial wrong-doing—for example, identity theft, stolen credit card, fraud, or other crimes resulting in financial losses?
29. Government witnesses in this case will consist in part of law enforcement personnel and government employees, and may include, for example, employees of the Office of the Comptroller of the Currency and Special Agents and other personnel with the FBI. Would you be more or less likely to believe a witness merely because he or she is a member of a law enforcement agency or works for the Government?
30. Would you be unable to follow my instruction that the Government is not required to use any particular investigative technique uncovering evidence of or prosecuting a crime?
31. You will hear evidence about the Small Business Administration, also called the SBA, and the loans that it guarantees. Will anything about your knowledge of or interactions with the SBA affect your ability to be fair and impartial in this case?
32. You will also hear evidence about bank loan commissions, sometimes known as broker fees. Will anything about your knowledge or experience with bank loan commissions or broker fees affect your

ability to be fair and impartial in this case?

33. You may hear testimony in this case from one or more cooperating witnesses, that is, a witness who at one time was involved in illegal activity, but who has now pleaded guilty to crimes and is testifying on behalf of the Government in the hope of receiving a lower sentence. The use of cooperating witnesses is a legal, and often necessary, law enforcement tool. Do you have any feelings about the use of cooperating witnesses generally, or the use of evidence or information obtained from cooperating witnesses, that would make it difficult for you to render a fair and impartial verdict if you heard testimony from a cooperating witness?
34. You may hear testimony from witnesses who have entered into what is called a non-prosecution agreement with the Government. At the end of the case, I will give you more detailed instructions on this matter. For now, it is enough for you to know that, if a witness has entered into a non-prosecution agreement with the Government, the Government is precluded from prosecuting the witness for certain criminal activity. But a non-prosecution agreement does not protect any witness from prosecution for perjury, making false statements, and obstruction of justice if the witness lies on the stand. Do you have any feelings about the conferring of immunity or use of such testimony that would affect your ability to be fair and impartial in this case?
35. You may hear evidence in this trial from witnesses for whom English is not their native language and they may testify with the assistance of an interpreter. Is there any reason why you think you would not be able to evaluate fairly and impartially the testimony of a witness testifying with the assistance of an interpreter?
36. You may hear evidence of criminal activity committed by people other than Mr. Shin. Those other individuals are not on trial here. You may not draw any inference from that fact and must not speculate as to why they are not on trial. Would you be unable to follow this instruction?

37. The following are legal principles that apply in every criminal case. Would you, for any reason, be unable to follow any of these legal principles:
- a. Mr. Shin is presumed innocent.
 - b. The Government has the burden of proof at trial.
 - c. The Government must prove its case beyond a reasonable doubt.
 - d. The jury's verdict must be unanimous.
 - e. Mr. Shin does not have to testify or present any defense, and the jury is not permitted to consider that fact in any way in deciding whether or not the Government has proved that he is guilty.
 - f. A defendant's silence cannot be held against him or her.
38. The function of the jury is to decide questions of fact. However, when it comes to the law, you must listen to my instructions and accept and apply the law as I explain it. Do you have any hesitation or unwillingness to apply the law as I explain it even if you disagree with the law or if it conflicts with what you think the law should be?
39. Have you formed an opinion that any of the charges, as I have described them, should not be a crime?
40. Are you unable to accept that the question of punishment is for the Court alone to decide and that the possible punishment must not enter into the deliberation of the jurors as to whether the defendant on trial here is guilty or not guilty?
41. It is not a particularly pleasant duty to find someone else guilty of committing a crime. Do you feel that even if the evidence established a defendant's guilt beyond a reasonable doubt, you might not be able to render a guilty verdict for reasons unrelated to the law and the evidence?
42. Do you have any religious, philosophical, or other beliefs that would make you unable to render a guilty verdict for reasons unrelated to the law and the evidence?

43. Do you have any reservations about discussing your opinions with other people?
44. Do you have any reservations about sitting in judgment of others?
45. Under your oath as a juror, you are not to be swayed by sympathy. You are to be guided solely by the evidence in this case, and the law as I will charge you. Are you unable to accept my instruction that you are not to be swayed by sympathy of any kind?
46. Do you have any medical problems, particularly eyesight or hearing difficulties, which could affect your perception of the proceedings?
47. Are you taking any medication, or do you suffer from any medical condition, that would prevent you from sitting for prolonged periods or giving your full attention to all the evidence?
48. Do you have any difficulty in reading or understanding English?
49. The fundamental issue here is whether there is anything in your personal history or life experience that would prevent you from acting as a fair and impartial juror here. But only you know whether there is some other matter that I did not mention that I should have asked about. Is there anything that would affect your ability to render a fair and impartial verdict in this case?

Part 2: Individual Juror Questionnaire

1. What is your city, town or village, and county, of residence?
2. Do you currently rent or own your home?
3. How long have you lived at that residence?
 - a. If less than ten years, where did you live before that?
4. How far did you go in school?
5. What is your occupation?
 - a. Who is your employer and where do you work?
 - b. How long have you had that job?
 - c. What previous jobs have you had?
 - d. If you are retired, what position did you hold before retirement?
6. What is your marital status?
 - a. If you are married, what are your spouse's educational background and current employer?
7. Are there other adults in your household?
 - a. If so, what do they do?
 - b. If they are retired, what did they do before retirement?
8. Do you have children?
 - a. If so, how old are they?
 - b. If they are adults, what do they do?
9. Are you a member of any organizations?
 - a. If so, which ones?
10. Which publications—such as newspapers, magazines, or online news websites—do you regularly read?

11. What types of books do you enjoy reading?
12. What radio stations, podcasts, and television programs do you regularly tune in to?
13. What social media platforms do you regularly use?
14. What do you like to do in your spare time?

Dated: November 29, 2021
New York, New York